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1 2 3 4 5 6 7	KAMALA D. HARRIS Attorney General of California KAREN B. CHAPPELLE Supervising Deputy Attorney General WILLIAM D. GARDNER Deputy Attorney General State Bar No. 244817 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2114 Facsimile: (213) 897-2804 Attorneys for Complainant	
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9	BEFORE THE BOARD OF REGISTERED NURSING	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11	T (1 - Matter - Ctl - A - matter A coincide	Case No. 2013 - 587
12	In the Matter of the Accusation Against:	
13	MARY EVELYN WINTER 3650 4th Avenue, Apt. 8	ACCUSATION
14	San Diego, CA 92103	
15	3712 Pinoak Road Richmond, VA 23223	• •
16	Registered Nurse License No. 355544	
17	Respondent.	
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19	Complainant alleges:	
20	PARTIES	
21	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her	
22	official capacity as the Executive Officer of the Board of Registered Nursing, Department of	
23	Consumer Affairs.	
24	2. On or about February 28, 1983, the Board of Registered Nursing issued Registered	
25	Nurse License Number 355544 to Mary Evelyn Winter ("Respondent"). The Registered Nurse	
26	License expired on February 28, 2003, and has not been renewed.	
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#### **JURISDICTION**

- 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
  Department of Consumer Affairs, under the authority of the following laws. All section
  references are to the Business and Professions Code ("Code") unless otherwise indicated.
- 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

## STATUTORY PROVISIONS

- 5. Section 118, subdivision (b) of the Code provides, in pertinent part:
  - "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the licensee or otherwise taking disciplinary action against the licensee on any such ground."
- 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
  - 7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ..."

8. Section 2811, subdivision (b) of the Code provides:

"Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing."

# **REGULATORY PROVISIONS**

9. California Code of Regulations, title 16, section, 1419.3 provides:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

- (a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.
- (b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

## **COST RECOVERY**

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

#### FIRST CAUSE FOR DISCIPLINE

# (Disciplinary Action by the Virginia Board of Nursing)

- 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was disciplined by the Virginia Board of Nursing.
- 12. On or about July 18, 2006, pursuant to the Consent Order issued by the Virginia Board of Nursing in the disciplinary action entitled, *In Re: Mary Winter, R.N.*, the Virginia Board of Nursing indefinitely suspended Respondent's registered nurse license. The basis for the discipline is that, pursuant to the July 18, 2006, Consent Order, Respondent admitted to having abused alcohol to an extent that rendered her unsafe to practice. Specifically, Respondent admitted to the Virginia Board of Nursing that between November 2004 and September 2005, she had been treated at a local emergency room for alcohol abuse twelve (12) times and had also been admitted for inpatient treatment for alcohol overdose and withdrawal a total of four (4) times during this same time period. Respondent further admitted that she was addicted to alcohol and that she had signed a participation contract with the State of Virginia's Health Practitioners' Intervention Program. Respondent was deemed non-compliant with that program.

## SECOND CAUSE FOR DISCIPLINE

### (Unprofessional Conduct)

13. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct. The conduct is more particularly described in paragraphs 12, inclusive, above, and herein incorporated by reference.

#### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 355544, issued to Mary Evelyn Winter;

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1	2. Ordering Mary Evelyn Winter to pay the Board of Registered Nursing the reasonable	
2	costs of the investigation and enforcement of this case, pursuant to Business and Professions	
3	Code section 125.3;	
4	3. Taking such other and further action as deemed necessary and proper.	
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7	DATED: Taluary 25 2012	
8	LOUISE R. BAILEY, M.ED., RN	
9	Executive Officer Board of Registered Nursing	
10	Department of Consumer Affairs State of California	
11	Complainant	
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Accusation